

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 17-4212

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GERALD ANDREW DARBY,

Defendant - Appellant.

PRIVACY INTERNATIONAL; ELECTRONIC FRONTIER FOUNDATION;
NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS,

Amici Supporting Appellant.

Appeal from the United States District Court for the Eastern District of Virginia, at Norfolk. Robert G. Doumar, Senior District Judge. (2:16-cr-00036-RGD-DEM-1)

Submitted: April 30, 2018

Decided: May 8, 2018

Before NIEMEYER, DUNCAN, and THACKER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

Jeremy C. Kamens, Federal Public Defender, Alexandria, Virginia, Andrew W. Grindrod, Assistant Federal Public Defender, OFFICE OF THE FEDERAL PUBLIC

DEFENDER, Norfolk, Virginia, for Appellant. Dana J. Boente, United States Attorney, Alexandria, Virginia, Elizabeth M. Yusi, Assistant United States Attorney, Norfolk, Virginia, Richard D. Cooke, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Richmond, Virginia, for Appellee. Scarlet Kim, PRIVACY INTERNATIONAL, London, United Kingdom; James R. Theuer, JAMES R. THEUER, PLLC, Norfolk, Virginia, for Amicus Privacy International. Cindy Cohn, Mark Rumold, Andrew Crocker, ELECTRONIC FRONTIER FOUNDATION, San Francisco, California, for Amicus Electronic Frontier Foundation. Elizabeth Franklin-Best, BLUME FRANKLIN-BEST & YOUNG, LLC, Columbia, South Carolina, for Amicus National Association Of Criminal Defense Lawyers.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

Gerald Andrew Darby pled guilty, pursuant to a conditional plea agreement, to receipt of child pornography, in violation of 18 U.S.C. §§ 2252(a)(2), 2256(1) & (2) (2012). The district court sentenced Darby to 60 months' imprisonment. On appeal, Darby challenges the denial of his pretrial motion to suppress.

In *United States v. McLamb*, 880 F.3d 685 (4th Cir. 2018), we addressed a substantially similar challenge to the same warrant at issue here and concluded that, even if the warrant was unconstitutional, the good faith exception precluded suppression of the evidence. *Id.* at 689-90. In light of *McLamb*, we conclude that the district court did not err in denying Darby's motion to suppress.

Accordingly, we affirm the criminal judgment. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED